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JUN 23 1967

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IN THE

Supreme Court of the United States

October Term, 1966

No. 1243

DONALD L. JACKSON,

Petitioner,

v.

THE PEOPLE OF THE STATE OF NEW YORK,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO COURT OF APPEALS, STATE OF NEW YORK.

PETITION FOR REHEARING

DONALD L. JACKSON,
494 Masten Avenue,
Buffalo, New York 14209.
Representing Self.

BATAVIA TIMES, LAW PRINTERS,
BATAVIA, N. Y.

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The petitioner herein respectfully moves this Court for an order (1) vacating its denial of the petition for writ of certiorari, entered on May 29, 1967, and (2) granting the petition. As grounds for this motion, petitioner states the following:

1. The Grant of Certiorari in Giles v. Maryland Oct. Term 1966 386 U. S. 66.

This Court held in this case Non-disclosure of evidence by prosecutor amounts to a denial of due process it must be

such as in material and capable of clearing or tending to clear the accused of guilt or of substantially affecting the punishment to be imposed in addition to being such could reasonably be considered admissible and useful to the defense 239 M. D. 458.

While the instant case involves the prosecutor withholding evidence that would prove that the defendant being tried was being lied on. Record page 13 line 10, 11, plaintiff stated that she arrived at defendant's place at 4:00 and got home about 5:30. The prosecutor suppressed evidence that clearly showed that the plaintiff had been lying. The Job Opportunity Office closes at 5:00, however they had received a telephone call from Bertha O. Beecher, the plaintiff prior to 4:00 that she had been assaulted, this was prior to Bertha O. Beecher's own testimony of ever seeing the defendant. Page 13 of the Record Line 10, 11, "I guess I went there about something after 4:00 and I got home about 5:30." Prosecutor had this information prior to trial.

Page 13 of the Record Line 20 to 23, plaintiff testified that "When I got to the Corner he told me not to tell anyone Page 14 Line 6 He got in his car and he followed me to the house and told me not to tell anyone, to keep my business to myself. According to her testimony she didn't stop any place and in fact that she arrived at the defendant office after 4:00 and according to the Job Opportunity Office they received a telephone call from Bertha O. Beecher that she had been assaulted prior to 4:00. The Prosecutor also had information that an automobile would have to drive the wrong way on over two streets in order to follow the plaintiff, defendant would have to drive over 1 mile to get back to the corner to follow plaintiff. The distance from defendant's office to the corner is only two houses located between the intersection and the office. Defendant would have

to proceed down Masten to Northland Ave. (Balcon St.) is one way traveling the opposite direction turning left on Northland to Main St. traveling ¾ mile on Main St. before being able to turn left on Michigan and then proceeding left on E. Ferry St. then driving half mile on E. Ferry to reach the intersection of E. Ferry and Masten Ave., car would be facing East. The only other way I would have to turn left on Northland up and over to Waverly up Waverly to E. Ferry and west on E. Ferry to Masten Ave., car would be facing west going the opposite direction of plaintiff.

Traveling Masten to Main Route is over 2 mile drive back to E. Ferry St. and Masten, car would be facing East of Ferry St.

Traveling Masten to Northland to Waverly to E. Ferry St., to Masten Ave. my car would be facing west, she would be traveling the opposite direction. This distance is over 1 mile.

Plaintiff testified when she reached the intersection, he told me not to tell anyone Page 14 line 6. He got in his car and followed me to the house. Defendant would have had driven 1 mile one way or 2 miles the other route and plaintiff only had walked two houses in this time? To follow plaintiff home would require driving wrong way on one way street on Masten and Butler.

Page 42 Line 1 to 8 of the record The Court: asked "Did you have any contact with the defendant before that day?" Bertha O. Beecher answered "No". The Court: Do you know him at all? The Witness: No, only I seen him the day he took my picture.

Line 7 the Court asked Bertha O. Beecher, "Did you or your family have any difficulties with him? Her Answer

Line 8 "No." Bertha O. Beecher the plaintiff deliberately lied, she was kicked out of the Hi-Y Club, because I wrote a story about her blackmailing men and drinking alcoholic beverages excessive prior to her bringing these charges and her parents were angry at me for I had frequently exposed Mr. Beecher and others that have had no education over the 8th Grade paying 4 other ministers $10. each to become ordain ministers, whereby then they can purchase goods at a discount and ride the plane and train at reduced rates. Mr. Beecher has never been pastor of a church.

I have been strong advocate against dope peddlers and users of narcotics and Bertha O. Beecher's brother has been arrested and convicted as a dope peddler and user, her brother was in the court room encouraging her along.

This Court held October Term in the case of Miller v. Pate, Warden, 386 U. S. 1.

More than 30 years ago this Court held that the Fourteenth Amendment cannot tolerate a state criminal conviction obtained by the knowing use of false evidence. Mooney v. Holohan, 294 U. S. 103.

There has been no deviation from that established principle, Napue v. Illinois, 360 U. S. 264. Pyle v. Kansas, 317 U. S. 213, Alcorta v. Texas, 355 U. S. 28. There can be no retreat from that principle here Black v. U. S., 385 U. S. 26. This entire Assault Charge by Bertha O. Beecher is a vicious lie, her entire testimony was lies. Page 13 Line 13 of the Record plaintiff testified that I know his car because it has a campaign sign on it. A copy of the receipt from the printer shows that the campaign signs were not printed and delivered until the following day.

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ADDRESS 494 Masten Avenue

8 12	To 50 Campaign Signs (2 Colors)	$17.50

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J. R. Garrett

(2). This Court held in Parker v. Gladden, 385 U. S. 363, Bailiffs' statements to Jurors violated the command of the Sixth Amendment, made applicable to the State by the Fourteenth, that the accused shall enjoy the right to an impartial jury and to be confronted with the witnesses against him.

That I was denied the right to have witnesses in my favor because my witnesses were unlawfully coerced, threaten, intimidated and prevented and dissuaded from testifying in the behalf of the defendant.

In that Cathy Geary a 22 year old University of Buffalo student that resided at 104 Woodcrest, West Seneca, New York, the niece of the Deputy Police Commissioner of City of Buffalo, was threatened, coerced, intimidated and prevented and dissuaded by members of the Buffalo Police Department who are officers of the Court from testifying for the defendant. This threaten and intimidation by the Buffalo Police in the Court Room intimidated my other witnesses to the point that it affected their memory and one witness Barbara Carthon, became scared because of this

harassment by the police in the Court Room because of her fright she lost her memory. Barbara was shaking and the Judge noticed her and asked her on page 37 Line 6 of the record if she was a reluctant witness? And on page 57 line 20 to 22 the Judge used this witness to form his basis of the guilty verdict. Because of the condition that this intimidation place Barbara, I was unable to examine her on many material fact of the background of the plaintiff, that the police officer who are officers of the Court in the Court Room threaten and intimidated and dissuaded my witness Cathy Geary from testifying the Judge used disappearance of Cathy Geary to form his guilty verdict Page 57 Line 22, 23 and page 58 Line 1 of the Record. The Judge gave me opportunity to have adjournment to bring my witness back to Court. I refused because I was not aware of the fact that my witness was threaten and intimidated and dissuaded by police officers. The police were angry because I wrote a book about corruption in police department. The action of the police officer violated by Constitutional right.

This Court held in the case of Hoffa v. United States, 385 U. S. 293 that Hoffa was wrong to tamper with a Juror, if Hoffa is wrong to tamper with a Juror then the Police officer who are officer of the Court are equally guilty and my rights under the 6th Amendment of United States Constitution were violated and that I did not receive a fair trial.

In the case of People v. Leonard, 1960, 24 Misc. 2d 300 and 197 N. Y. S. 2d 209, stated critical issue the party's intent at time he exerted the unlawful coercion, threat and intimidation and not the state of mind of the witness, and once the illegal and unlawful attempt to intimidate is established, witness state of mind is irrelevant.

This Court held in the case State of California v. Mrs. Ruth Elizabeth Chapman and Thomas Leroy Teale, 386 U. S. 18 that when Federal Constitutional rights are violated the burden will be on the state to prove beyond a reasonable doubt that the infringement did not contribute to the verdict.

Conclusion

I did not receive a fair trial for I was tried by a prejudice Judge I was denied equal protection under the law. Denied the right to have witnesses.

There was insufficient evidence for a conviction of Assault 3rd Degree. I was convicted on sole testimony of Bertha O. Beecher the plaintiff.

The defendant taken the stand and denied all charges and Mrs. Esther Jackson who was present testified no assault taken place on the premises against Bertha O. Beecher.

I was sentenced to 6 months E. C. Pen S. S. and Indefinite Probation. The Maximum sentence is 1 year or $500. fine or both. While Indefinite Probation here carries a Probationary sentence from 1 to 3 years. Plus probation can be extended to double this period to include 6 years period. This sentence is the most unusual that has taken place in the City Court of Buffalo. This sentence of Indefinite Probation carries a greater sentence than the statute allows.

We, the undersigned, each for himself and/or herself, hereby states and affirms as follows:

1. We know Donald L. Jackson, Sr., of 494 Masten Avenue, Buffalo, New York; we have known him and his family for a substantial period of time; we are familiar with the community in which he lives, works, does business,

and carries on his varied activities; we are familiar with his reputation for truth, veracity, morality, religious observance, chasity, honesty, integrity, and social responsibility; we believe that his reputation in each of these instances is of the highest and finest in the respective communities with which we are familiar; and we would be willing to testify to the foregoing upon any trial or re-trial of Mr. Jackson on the alleged crime of assault, third degree or the complaint of Bertha Beecher:

Name	*Address*
Kingsley Williams	776 Auburn Avenue, Buffalo, N. Y.
James M. Young	190 Campus Drive, Buffalo 26, N. Y.
Lynn J. Dane	316 Bernhardt Dr., Snyder 26, N. Y.
Justin G. Dane	316 Bernhardt Dr., Snyder 26, N. Y.
Starryl Durnell	117 Hawle St., Bflo. 13, New York
Hattie B. Spidell	179 Brunswick, Buf. 8, N. Y.
Earl C. Knight	26 Woodland Terrace, Buffalo 25, N. Y.
Leonard W. Champagne	1592 Bailey Ave., Buff. 12, N. Y.
Izetta Barnes	340 Winslow Ave., Buffalo, N. Y.
Sam Miller	134 Waverly St., Buffl., N. Y.

For the foregoing reasons and for the reasons set forth in the original petition, petitioner prays that this Court will reconsider his application for issuance of a writ of certiorari.

Respectfully submitted,

DONALD L. JACKSON,
494 Masten Avenue,
Buffalo N. Y.,
Representing Self.

Certificate of Counsel.

I am the petitioner, I hereby certify that this petition for rehearing is presented in good faith and not for delay and is restricted to the grounds specified in Rule 58(2).

DONALD L. JACKSON,
Representing Self.